


and vital to our system of government. The most important privileges granted to all members is a right to enter, to be present to vote, and to otherwise participate in legislative activities. As stated above, House rules specifically say when a call of members to the House is made, members are required to attend. The Speaker even has authority to send out the Sergeant of Arms to compel members to attend. House rules further say that no one can bar member being present during a session. Defendant was trying to enter the House chamber in an effort to carry out his privileges and obligations as a member of the House of Delegates. Because this legislative act committed within the legislative sphere is statutorily protected activity, Defendant cannot be prosecuted criminally based upon the allegations made in the CRIMINAL COMPLAINT.

For the foregoing reasons, Defendant Michael L. Caputo respectfully moves this Court to dismiss the misdemeanor charges for allegedly violating W.Va.Code §61-2-9(c), based upon legislative immunity.

MICHAEL L. CAPUTO, Defendant,

--By Counsel--



J. Timothy DiPiero (WV Bar # 1021)
Lonnie C. Simmons (WV Bar #3406)
DiPiero Simmons McGinley & Bastress, PLLC
P.O. Box 1631
Charleston, West Virginia 25326
(304) 342-0133 (telephone)
(304) 342-4605 (facsimile)

FILED WITH THE
CLERK OF COURT
DEC 05 2019
KANAWHA COUNTY
MAGISTRATE COURT